

In the United States Court of Federal Claims

No. 99-883C
(Filed January 18, 2008)

DANNY T. BARNES, *
Plaintiff, *

v. *

THE UNITED STATES, *
Defendant. *

ORDER

With the denial of a *writ of certiorari* in this matter, 128 S. Ct. 66 (2007), the opinion of the Federal Circuit, *Barnes v. United States*, 473 F.3d 1356 (Fed. Cir. 2007), would appear to preclude the assertion of any viable monetary claim by plaintiff in this action. The validity of plaintiff's removal from naval service has been upheld. Any further judicial review of the decisions of the Board for the Correction of Naval Records would be futile. The promotion relief sought by plaintiff and denied by the board would appear to be precluded, in any event, by the ruling in *Dysart v. United States*, 369 F.3d 1303 (Fed. Cir. 2004).

In this circumstance, it appears that no monetary claim within the jurisdiction of this court remains for consideration and final dismissal of this litigation is now contemplated.

Accordingly it is **ORDERED**:

(1) On or before February 15, 2008, a memorandum(s) may be filed detailing any reason why it is considered this litigation should not be dismissed and proposing a schedule for further proceedings to provide a final resolution of this litigation;

(2) If a memorandum is filed pursuant to (1), opposing counsel shall file a response within 14 days after receipt of service;

(3) In the absence of any filing in accordance with (1), and without further order by the court, final judgment shall then be issued dismissing this litigation as no longer comprising a cause of action withing the jurisdiction of the court to grant relief.

James F. Merow
Senior Judge